

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

RON and LISA SIMMONS,  
BRENTERPRISES, L.P., CHARLES  
SCOTT TYKES, JR., d/b/a CSS  
TECHNOLOGY ASSOCIATES  
SYKES & ASSOCIATES,

Plaintiffs,

V.

QUIXTAR, INC.,

Defendant.

CASE NO. 4:07cv389

**MEMORANDUM ADOPTING REPORTS AND  
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE AND  
ORDERING THAT STAY BE LIFTED AND CASE PROCEED IN THIS COURT**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On May 23, 2008, the report of the Magistrate Judge was entered granting Plaintiffs' Motion for Reconsideration of Order of Stay (Dkt. 83) and containing proposed findings of fact and recommendations that the order referring this matter to arbitration (Dkt. 56) be VACATED and that the case proceed in this Court.


The court has made a *de novo* review of the objections raised by Defendant. Having reviewed the objections, response, reply, and sur-reply, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of Defendant are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court. The order referring this matter to arbitration (Dkt. 56) is hereby VACATED and it is ORDERED that this case proceed in this Court.

Further, having reviewed the docket, the Court notes that shortly before it was referred or while this matter was in arbitration, the Magistrate Judge addressed, through reports and recommendations, several motions raised by the parties as to emergency or injunctive relief. No objections have been filed to those reports. Now that the arbitration order has been vacated and the matter is now before the Court, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's reports as the findings and conclusions of the Court. Therefore, to the extent the issues are not now otherwise moot, the Emergency Application for Intervention (Dkt. 37) and corresponding request for injunctive relief are DENIED, Defendant Quixtar, Inc.'s Motion to Vacate Preliminary Injunction as to Ron and Lisa Simmons (Dkt. 65) and Supplemental Motion to Vacate Preliminary Injunction (Dkt. 69) are GRANTED, the Court's Preliminary Injunction Order (Dkt. 55) is VACATED in its entirety, and the bond in the amount of \$1,000 posted as security for this injunction should be returned to Plaintiffs if it has not already been.

The stay ordered by the Magistrate Judge is, by its own terms, lifted, and the parties should proceed with the case.

**IT IS SO ORDERED.**

**SIGNED this 8th day of July, 2008.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE